



# INTERROGATION PROCEDURES FOR LAW ENFORCEMENT

## Directive 5 - 106

Date of Issue: July 2013    Amends/Cancel: Chapter V Sec 4B

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### I. PURPOSE

The purpose of this Directive is to provide written guidance for conducting interrogations on law enforcement officers.

### II. POLICY

All interrogations must be conducted in accordance with the Law Enforcements Officers' Bill of Rights.

### III. PROCEDURES

- A. Every officer under investigation, who is to be interrogated for any incident which could lead to disciplinary action, will first be allowed to read or will have read to him a completed copy of a Notification of Complaint /Waiver of Rights, DGS-MCP Form 178. The form should clearly state that the recipient is the subject of an investigation, and clearly include the nature of the investigation. It shall be the responsibility of the investigating officer to complete the form prior to any interrogation of the accused. If the employee desires to waive the rights afforded him by the Police Officers' Bill of Rights, he shall so indicate by signing his name, rank and SS number in the place provided. The investigating officer must be certain that the employee is given this opportunity to waive or retain his rights before any statement can be taken. The original copy of DGS-MCP Form 178 will be signed by the accused and placed in the original case file. A copy will be given to the accused.
- B. Every police employee under investigation for a violation of Department rules, policy or procedure may be required to submit to blood alcohol tests; blood, breath, or urine tests for controlled dangerous substances; polygraph examinations; interrogations; or submit detailed reports which specifically relate to the subject matter of the investigation. Some reports may have to be prefaced by a test; blood, breath, or urine test for controlled dangerous substances; polygraph examinations; interrogations; or contents of a detailed report, are not admissible in any criminal proceedings against the police employee when he has been ordered to comply. The results of a polygraph examination may not be used as evidence in any administrative hearing when the police employee has been ordered to submit to such examination by the Department unless the Department and the police employee mutually agree to the admission of the results. Such an interrogation, examination, or test must be prefaced by advising the accused of certain rights:
  - 1. Information supplied through his answers will not be used against him in subsequent criminal proceedings.
  - 2. His refusal to cooperate in the investigation could ultimately lead to his dismissal.

The accused must be advised that failure to cooperate in the investigation or to submit to a blood alcohol test; a blood, breath or urine test for controlled dangerous substances; a polygraph examination; an interrogation; or submit a detailed report which specifically relates to the subject matter of the investigation is itself a violation of the rules of conduct of the Department of General Services Maryland Capitol Police and constitutes grounds for disciplinary action.

- C. A law enforcement officer's representative may be permitted to be present during the administration of a polygraph examination if the physical facilities will allow for it and if his presence will not, in the opinion of the polygraph examiner, disrupt the examination. For the purposes of this subsection, "presence" means that the representative may be constructively present during the examination, viewing it from outside the examination room, e.g. through a one-way mirror, or physically present in the room. If the facilities are such that the law enforcement officer's representative cannot be present without disrupting the examination, then he may be excluded, but in these instances:
1. All substantive questions concerning the offense which will be asked during the examination will be made available, on request, to the accused or his representative.
  2. The polygraph examination shall be tape recorded and the tape, including pretest and post-test phases, shall be made available on request, to the accused or his representative.
  3. The polygraph examiner will make available to the accused or his representative within a reasonable time, but no more than ten days following the completion of the examination, a copy of all reports written by the examiner concerning the examination.
- D. During an internal investigation; any officer, regardless of rank, may be required by the investigator to submit a statement and answer all questions which specifically relate to the subject matter of the investigation.
- E. If the police employee under interrogation is also under arrest, or is likely to be placed under arrest as a result of the interrogation, he shall be completely informed of all his rights prior to the commencement of the interrogation. The words "all his rights" include his constitutional rights, the Miranda Warnings, as well as any other right granted by statute, ordinance, or Department regulation.
- F. At the request of any law enforcement officer under interrogation, the officer shall have the right to be represented by counsel or any other responsible representative of his choice who shall be present and available for consultation at all times during the interrogation, unless waived by the law enforcement officer. Counsel may be an attorney, employee of this Department, or any other responsible individual or employee organization chosen to represent the accused, excluding members of the hearing board. The interrogation shall be suspended for a period of time not to exceed ten days until representation is obtained.

- G. The law enforcement officer under investigation shall be informed of the name, rank, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the officer under interrogation shall be asked by and through one interrogator during any one interrogating session.
- H. The interrogation shall be conducted at a reasonable hour, preferable at a time when the accused is on duty, unless the seriousness of the investigation is such that an immediate interrogation is required, but these conditions may be waived by the accused.
- I. The interrogation shall take place at either the assignment of the accused, at a police installation in the area where the incident allegedly occurred, or at any other reasonable and appropriate place designated by the investigating officer unless otherwise waived by the accused.
- J. The date and time that the interrogation is begun, all interruptions, and the time the questioning is terminated shall be recorded.
- K. The law enforcement officer under interrogation may not be threatened or coerced (e.g. with transfer or dismissal) in any manner whatsoever.
- L. A complete record, written, taped, or transcribed, shall be kept of the complete interrogation, including all recess periods. After the investigation has been completed, and upon the request of the police employee under investigation or his counsel, a copy of the record of his interrogation shall be made available, not less than ten days prior to any hearing.